FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO.3198 2005

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Mrs.U.V.Kejriwal APP for the applicant/State.

Coram : R.M.S.Khandeparkar & R.S.Mohite,JJ

Date : 19.12.2005.

PC

. Heard.

1. Considering the facts disclosed in the application, we are satisfied that there was sufficient cause for delay in filing the appeal and hence, delay of 103 days in filing the appeal is condoned. Application accordingly, stands disposed of.

2. The amount directed to be deposited towards the cost shall be credited to the account of Maharashtra Legal Aid Services.

(R.M.S.Khandeparkar,J)

(R.S.Mohite,J)

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. Heard.

1. Bare perusal of the impugned Judgment discloses total non application of mind and approach being totally contrary to well settled law in relation to assessment of evidence in kidnapping and rape cases. It has been observed by the learned Sessions Judge in the impugned Judgment thus :

. "Even if it is believed for

the sake of argument that the accused kidnapped prosecutrix and had sexual intercourse with her, the same could have been done with the consent of the prosecutrix who is on the verge of majority and not without her consent, which is apparent from her conduct after the occurence."

2. Before making the above observations, the learned Judge himself had arrived at the finding that at the relevant time prosecutrix was at the age of 14 years. In the circumstances, it is a clear case for admission of the appeal. Leave to appeal is granted. Consequently the appeal stands admitted. Action under Section 390 of Cr.P.C. to follow.

(R.M.S.Khandeparkar,J)

(R.S.Mohite,J)